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JUL 27 2006

OFFICE OF PETITIONS

In re Application of	:
Miller et al.	:
U.S. Patent No.: 7,074,888	:
Issue Date: July 11, 2006	:
Application No. 09/258,947	: Decision on Petition for
Filing Date: March 1, 1999	: Patent Term Extension
Attorney Docket No.: 011.00117	:
For: MIMOTOPES AND ANTI-	:
MIMOTOPES OF HUMAN PLATELET	:
GLYCOPROTEIN IB/IX	:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition Under 37 CFR 1.181," received on May 25, 2006. The petition is being treated under 37 CFR 1.181 and 37 CFR 1.701, as a petition for patent term extension.

The petition is GRANTED.

Petitioner argues that the patent should get a patent term extension beginning on June 25, 2003, the date that the Notice of Appeal was filed and ending on February 28, 2005, the date of the decision in favor of applicants.

35 U.S.C. § 154(b) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for those delays and others in applications filed on or after May 29, 2000

A Notice of Appeal was filed in the above-identified application on June 25, 2003.¹ On February 28, 2005, the Board of Patent Appeals and Interferences (BPAI) vacated the rejections and remanded the application to the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review,

¹ Under 37 CFR 1.8, except in certain situations, correspondence required to be filed in the Office within a set period of time will be considered as being timely filed if the procedure described in the rule is followed. 37 CFR 1.8, further, states that the actual date of receipt will be used for all other purposes.

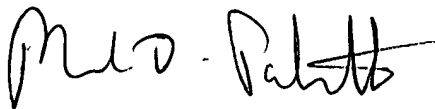
and issuance of the application as a patent was delayed due to appellate review resulting in a remand by a panel of the BPAI to the Examiner, the patent to issue from the application is entitled to an extension of the patent term.² The period of delay in the above-identified application is the period beginning on June 25, 2003, the date that the Notice of Appeal was filed and ending on February 28, 2005, the date of the remand by a panel of the BPAI, which is a final decision in favor of the applicant. Three years after the earliest effective filing date of the application is March 17, 1998. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the first period of extension is **615-days**, the period from June 25, 2003 to February 28, 2005, including the beginning and end dates.

The Office will issue a certificate of correction in order to rectify the error regarding the patent term extension information. See 35 U.S.C. 254 and 37 CFR 1.322. The certificate of correction will indicate that the patent term extension or adjustment under 35 U.S.C. 154(b) is **615-days**.

After mailing of this decision, the application will be forwarded to Certificates of Correction Branch for issuance of a Certificate of Correction.

Petitioner's deposit account has not been charged a petition fee.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

² Revision of Patent Term Extension and Patent Term Adjustment Provisions, 78 FR 21704, 21705 (April 22, 2004), 1282 Off. Gaz. Pat. Office Notices 100 (May 18, 2004) (final rule).